

TRULINCS 24374055 - MYERS, DWAYNE A - Unit: BRO-I-B

FROM: 24374055
TO:
SUBJECT: writ
DATE: 11/04/2015 06:09:56 PM

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

In Propria Persona

Case No: 15-CR-504 **MKB**

★ **NOV 10 2015** ★

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Prejudice

BROOKLYN OFFICE

Dwayne Myers
v.
UNITED STATES OF AMERICA

IN THE UNITED STATES
DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PETITION FOR WRIT OF HABEAS CORPUS

Filed October 28, 2015

To the Honorable Judge of Said Court:

Now comes Dwayne Myers hereinafter referred to as "Relater," acting under authority of 28 U.S. 530B, 2403 (a) (United States not a party) and to provide timely Notice to all interested parties of same, pursuant to Article III, Section 2, Clause 1 ("3:2:1") in the Constitution for the United States of America, as lawfully amend ("U.S. Constitution").

28 U.S.530B, 2403 WHO MAY PRESENT PETITION

Either the party for whose relief the writ is intended, or any person for him, may present a petition to the proper authority for the purpose of obtaining relief and files this petition and application for writ of habeas corpus and show the court due cause by the following.

CONTACT INFORMATION

Relater in this matter may be contacted at:

1501 Bushwick ave.
Brooklyn, NY 11207
646-270-8814

Affiant in the instant cause may be contacted at:

MDC Brooklyn
METROPOLITAN DETENTION CENTER
80 29th STREET
BROOKLYN, NY 11232

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Respondent may be contacted at the location indicated below:

Judge: Margo K. Brodie
U.S. District Court
Eastern District of New York (Theodore Roosevelt Courthouse)

NOTICE TO CHALLENGE TO THE CONSTITUTIONALITY OF THE ACT OF JUNE

25, 1948, 62 STAT. 869

Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403 (a), this court will please certify to the office of the Attorney General that the Constitutionality of an Act of Congress affecting the public interest is herein drawn in question.

ERRORS IN AFFIANT'S INDICTMENT

The government brought this accusation against Affiant charging him with Illegal Re-Entry, Use of a Passport secured By False Statements, and Aggravated Identity Theft. However, the Court has not shown the evidence. Therefore Affiant is being held in Federal Prison under coercion, threats, and intimidation for him to accept a plea.

The U.S. Department of Justice has no powers of attorney legally to represent any one of the 50 States of the Union nor all of them collectively. 28 U.S.C. 547. The 50 States of the Union are already quite adequately represented legally by their representatives State Attorney General. 28. U.S.C. 530B.

Moreover, in Eisner v. Macomber, 252 U.S. 189 (1920), the supreme Court prohibited Congress from *re-defining any terms used in the Constitution for the United States of America* ("U.S. Constitution"). At 28 U.S.C. 1746, both "United States" and "United States of America" occur in correct contradistinction to each other (inside one is outside the other). 28 U.S.C. 1746 is the only statute in all of Title 28 where the term "United States of America" occurs as such.

The UNITED STATES OF AMERICA [sic] did incorporate twice as such in the States of Delaware, but certified evidence shows that both foreign corporations have been revoked by the Delaware Secretary of State. Neither foreign corporation was ever registered with the New Mexico Secretary of State either.

Even if one or the other were not revoked, DOJ would still not have any powers of attorney legally to

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represent a foreign Delaware corporation. Congress never appropriated funds for DOJ to do so.

Finally, Congress has never incorporated either the "United States" or the "United States of America" as such. See *U.S. v. Cooper Corporation*, 312 U.S. 600 (1941). It appears that Chief Justice John Marshall was responsible for fabricating the myth that the "United States of America" are a corporation. See *Dixon v. The United States*, 1 Marsh Dec. 177, 181 (1811). However, without citing any crucial legislative authority for that proposition, Marshall's statement is merely dictum that was later cited in *Bouvier's Law Dictionary* (1856), at the definitions of "Union" and "United States of America". In any event, *Dixon* has been overruled by *Cooper supra* because *Dixon* was decided by a Circuit Court in a case which C.J. Marshall presided.

RESERVATION OF RIGHTS

Subject to all applicable provisions of Law, Relater hereby expressly reserves all rights of a party and shall be subject to all liabilities of a party as to court cost, to the extent necessary for a proper presentation of the facts and laws relating to the question of the constitutionality of said Act.

See Article II, Articles of Confederation ("United States, in Congress Assembled"); 28 U.S.C. 530B (willful misrepresentation); *William v. United States*, 289 U.S. 553 (1933) (United States as plaintiff); *United States ex rel. Toth v. Ouarles*, 350 U. S. 11 (1955); 3:2:1 (Controversies to which the United States shall be a Party;")

The "United States" and the "United States of America" are not one and the same, Congress is expressly prohibited from re-defining any terms found in the U.S. Constitution. See Preamble ("Constitution for the United States of America"); Article II, Section 1, Clause 1 ("2:1:1") (President *of the United States of America*"); Article VII ("Independence of the United States of America"); *Eisner v. Macomber*, 252 U.S, 189 (1920):

Congress ... cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations that power can be lawfully exercised.

The U.S Department of Justice does not enjoy general power(s) of attorney to represent the United States of America. Compare 28 U.S.C 547 (1), (2) (Duties). Willful misrepresentation by officers employed by that Department is actionable under the McDade Act, 28 U.S.C 530B (Ethical standards for attorney for the Government).

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Whenever the United States (proceeds as party plaintiff, an Article III constitutional court, exercising the judicial Power of the United States, is a prerequisite under 3:2:1 ("The judicial Power shall extend ... to Controversies to which the United States shall be a party"). See 28 U.S.C. 1345 (United States as plaintiff).

Whenever the United States proceeds as a party defendant, the State Citizen must grant permission to be sued. See 28 U.S.C. 1346 (United States as defendant). In this mode, a legislative court is permitted. See *William v. United States*, 289 U.S. 553, 577 (1933):

...[C]ontroversies to which the United States may by statute be made a party defendant, at least as a general rule, lie wholly outside the scope of the judicial power vested by Article 3 in the *Constitutional courts*. See *United States v. Texas*, 143 U.S. 621, 645, 646 S., 12 S. Ct. 488.

A Citizen may move a federal court on behalf of the United States *ex relatione*. *United States ex rel. Toth v. Quarles*, 350 U.S. 11 (1955).

The federal statute at 18 U.S.C. 3231 vests original jurisdiction in the several district courts of the United States ("DCUS"). These courts are Article III constitutional courts proceeding in judicial mode. See *Mookini v. U.S.*, 303 U.S. 201, 205 (1938) (term DCUS in its historic and proper sense).

Statutes granting original Jurisdiction to federal district courts must be strictly construed. [Numerous cites omitted here.] Confer also at "Inclusio unis est exclusion alterius" in *Black's Law Dictionary*, Sixth Edition.

The United States District Courts ("USDC") are legislative courts typically proceeding in legislative mode. See *American Insurance v. 356 Bales of Cotton*, 1 Pet. 511, 7 L. Ed. 242 (1828) (C.J. Marshall's seminal ruling); and *Balzac v. Porto Rico*, 258 U.S. 298, 312 (1922) (The USDC is not true *United States courts established under Article III.*) See 28 U.S.C 88, 91, 132, 152, 171, 251, 458, 461, 1367.

Legislative courts are not required to exercise the Article III guarantees required of constitutional courts. See *Keller v. Potomac Electronic Power Co.*, 261 U.S. 428 (1923); *Federal Trade Commission v. Klesner*, 274 U. S. 145 (1927); *Swift v. United States*, 276 U. S. 311 (1928); *Ex Parte Bakelite Corporation*, 279 U.S. 438 (1929); *Federal Radio Commission v. General Electric Co.* 281 U.S. 464 (1930); *Claiborne Annapolis Ferry Co. v. United states*, 285 U.S. 382 (1932); *O'Donoghue v. United*

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States, 289 U.S. 516 (1933); Glidden Co. v. Zdanok, 370 U.S. 530 (1962); Northern Pipeline Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982).

All guarantees of the U.S. Constitution were expressly extended into the District of Columbia in 1871, and into all Federal Territories in 1873. See 16 Stat. 419, 426, Sec. 34; 18 Stat. 325, 333, Sec. 1891, respectively; Hooven & Allison v. Evatt, 324 U. S. 652 (1945) (only as Congress has made those guaranties [sic] applicable).

UNITED STATES CODE

(18 means Title 18, 241 means section 241) These "Federal Laws" lawfully binding on all on all States. ATTORNEYS: Today in America, we are subject to criminal and civil actions of attorneys. These are usually commenced and prosecuted in the of some "imaginary person" (Corporation), the corporate "STATE" or corporation "UNITED STATES". All cases of this nature are prohibited by the 11th Amendment of the Constitution for the United States of America to commence or prosecute any action. To file any cause of action with one of these as "Plaintiff" is "Fraud" 18 USC 1001 and "Conspiracy against rights" 18 USC 241.

CRIMINAL ACTIONS

The 6th Amendment secures the accused the right to face all witnesses against him. Therefore, this law requires the "plaintiff" (injured party) be physical human being that can be cross examined. The only time an attorney can act without a human "Plaintiff" is in the case of "murder". All other cases require the "Plaintiff" be present in court. Under the 6th Amendment I demand "prosecutor" produce the "Injured Party": If "prosecutor" cannot produce an "injured party" I demand dismissal of complaint for lack of injured party. The court has no jurisdiction to proceed.

PRINCIPALS OF LAW

To establish a "crime" has been committed, there must be present evidence that Affiant "injured" another human being or damaged his/her property. Attorneys has created "imposter laws" that establishes "victimless" "crimes". This is "Fraud" 18 USC 1001 for any attorney to present these imposter crimes without injured party, claiming authority to prosecute. When a "Plaintiff" cannot be cross examined, no Judge can prove due process of law was administered. "Conspiracy against rights

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FROM: 24374055
TO:
SUBJECT: Writ1
DATE: 10/30/2015 01:43:03 PM

"18 USC 241 of the "Prosecutor" and "Judge" acting in "Prosecutorial Misconduct" in "Conspiracy to convict". A corporation is an artificial person without natural rights. For an attorney to file a complaint with a "Corporation" as "Plaintiff" is clearly "Fraud on the Court". The UNITED STATES OF AMERICA cannot sign a "Power of Attorney" or give any attorney verbal instructions to act on its behalf. Therefore, no attorney can lawfully represent any "THE UNITED STATES OF AMERICA". I demand THE UNITED STATES OF AMERICA to appear. Because the 6th Amendment secures that no person will be deprived of life, liberty and property without due process of law.

REMEDY REQUESTED

All premises having been duly considered, Realtor now moves this Honorable Court, on behalf of United States of America.

- (1) To certify to the office of the Attorney General that the constitutionality of the Act of June 25, 1948, 62 Stat. 869, has been drawn into question: and,
- (2) This court should also schedule a proper presentation of Law and evidence, if such evidence is otherwise admissible in this case, supporting arguments for and against the constitutionality of said Acts of Congress thus properly challenged to date: and,
- (3) I demand the "UNITED STATES OF AMERICA", he/she to appear in person. As well as demand Prosecutor to produce injured party in the case named UNITED STATES OF AMERICA v. Dwayne Myers, Case No. 15-CR-504. If not, I respectfully request dismissal of Indictment for lack of injured party, and that the court has no jurisdiction to proceed.

VERIFICATION

I, Dwayne Myers, Sui Juris, hereby verify, under penalty of perjury, under the laws of the United States of America, without the "United States" (federal government), that the above statement of facts and laws is true correct, according to the best of My current information, knowledge, and belief, so help me God, pursuant to 28 U.S.C 1746 (1). See Supremacy Clause (Constitution, Laws and Treaties of the United States are all the supreme Law of the Land).

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PROOF OF SERVICE

I, Dwayne Myers, Sui Juris, hereby certify under penalty of perjury, under the laws of the United States of America, without the "United States" (federal government), that I am at least 18 years of age, a Citizen of ONE OF the United States of America, and that I personally served the following document (s):

NOTICE OF MOTION AND MOTION FOR INTERVENTION OF RIGHT:

3:2:1 (in judicial mode);

28 U.S.C. 530B, 2403 (a); 18 U.S.C. 1964(a); U.S.C. 241

By mailing one true and correct copy of said document (s) in first class United States Mail, with postage and properly addressed prepaid and properly addressed to the following:

Clerk of Court
Douglas C. Palmer
Theodore Roosevelt
United States Courthouse
225 Cadman Plaza East.
Brooklyn, NY 11201-1818

Hon. Ken Thompson

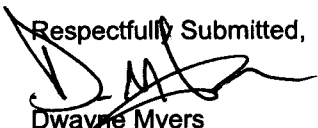
Brooklyn County District Attorney's office
350 Jay St.
Brooklyn, New York 11201

Hon. Carol Bagley Amon
Chief Judge
Theodore Roosevelt
United States Courthouse
225 Cadman Plaza East.
Brooklyn, NY 11201-1818

Hon. Loretta E. Lynch
Attorney General
U. S. Department of Justice
10th and Constitution, N.W.
Washington 20530
DISTRICT OF COLUMBIA, USA

Mr. James S. Carroll, III, Assistant Director
Executive office for United States Attorneys
Freedom of Information/Privacy Act Unit
600 "E" Street, N.W., Room 7300
Washington 20530
DISTRICT OF COLUMBIA

Respectfully Submitted,

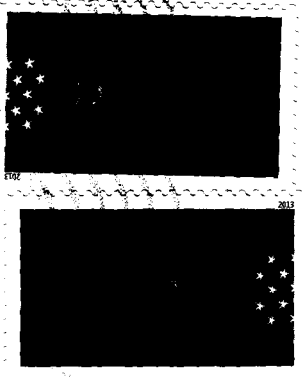

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